

Embedded Software Supplemental Terms

Siemens Digital Industries Software



These Embedded Software Supplemental Terms (“**Embedded Terms**”) amend the Universal Customer Agreement (“**UCA**”) or End User License Agreement (“**EULA**”) between Customer and SISW solely with regard to Offerings and Products which have been assigned any of the following alphanumeric codes on the Order: EMB-IES or EMB-EPS (“**Embedded Software Offerings**”). These Embedded Terms together with the UCA or EULA, as applicable, and other applicable Supplemental Terms form the agreement between the parties (“**Agreement**”).

1. **DEFINITIONS.** Capitalized terms used herein have the meaning as defined elsewhere in the Agreement. The following additional definitions apply to these Embedded Terms:

“**Authorized Agent**” means an individual who requires access to Embedded Software or Tool Software in support of Customer’s business as Customer’s consultant, agent, or contractor. For products which have been assigned the alphanumeric code EMB-IES, this only includes consultants, agents and contractors who are working on Customer’s premises or are accessing the Embedded Software from anywhere in the Territory through a connection to the Customer’s wide-area network.

“**Authorized Use**” means the specific license restriction variables for the Embedded Software as set forth in the Order, e.g., hardware (including ECU, Processor, etc.), Platform, software, product restrictions, user restrictions, etc.

“**Authorized User**” means a Customer’s employee or Authorized Agent. For licenses granted for a Territory that includes more than one country, this also includes employees and Authorized Agents of Customer Subsidiaries. “**Brand**” means an automotive product line by one automotive company, which is sometimes also known as a “**Make**” as expressly identified on the Order.

“**Customer Product**” means (i) for products which have been assigned the alphanumeric code EMB-EPS on the Order, a product identified on the Order which will be developed and/or manufactured by Customer or an Authorized Agent on behalf of Customer or (ii) for products which have been assigned the alphanumeric code EMB-IES on the Order, a moving machinery or any component thereof, excluding ultra-hazardous use-cases (including aerospace and aviation, nuclear power, chemical and/or biological reactors, petrochemical, military), but including military marine transportation vessels.

“**Customer Subsidiaries**” means companies controlled by Customer, for as long as such control exists. For purposes of this definition “control” is the direct or indirect ownership of more than 50% of voting securities of an affiliate. Where the parties have agreed to a different definition regarding which entities may use Embedded Software Offerings (other than Customer), “Customer Subsidiaries” will have the meaning ascribed to it in those different terms. “**Electronic Control Unit**” or “**ECU**” means a specific logical printed circuit board with a particular defined microcontroller on it, which is packaged into housing equipped with a connector and which contains the functionality, as expressly identified on the Order.

“**Embedded Software**” means Software contained within an Embedded Software Offering and comprising application, operating system, firmware, driver components, which are supposed to be embedded and executed on a device it was designed for.

“**Executable Code**” means a compiled program translated into a machine-readable format that can be loaded into memory and run by a processor.

“**Linkable Object Code**” means linkable code resulting from the translation, processing, or compiling of Source Code by a computer into machine-readable format.

“**Legitimate User**” means a user of a Customer Product that (i) acquired the Customer Product lawfully, and (ii) uses the Embedded Software embedded on the Customer Product strictly limited to the extent reasonably necessary for using the Customer Product and in line with applicable copyright laws.

“**Platform**” means a common foundation or design environment shared across multiple car models, Brands or automotive companies, as expressly identified on the Order.

“**Processor**” means the specific microprocessor to be used with Embedded Software and implemented in Customer’s Product.

“**Site**” or “**Authorized Location**” or “**Development Location**” means a single physical Customer location where the Software is permitted to be used by Authorized Users. Provided that an Authorized User’s official and customary place of work is a licensed Site, occasional use of the Software by such user from locations other than that Site (e.g., a user’s residence, an airport, a hotel, etc.) shall be regarded as use on the Site and in compliance with the Site restriction.

“**Territory**” means the Site(s) or geographic area specified on the Order where Customer is licensed to install and use the Software. If not specified on the Order nor elsewhere in the Agreement, the Territory shall be the country in which the Customer has its principal place of business.

“**Tool Software**” means a computer program used by software developers to create, develop, compile, debug, assemble, link or otherwise maintain Embedded Software which, by its nature, does not need to become part of Embedded Software, such as software source code generators, make-, config- and build-files or example code.

2. **LICENSE AND USE TYPES.** The following license and use types may be offered with respect to Software. Additional license and use types may be specified with respect to certain Software as set forth in an Order. Each license may be used only by Authorized Users in the Territory and for the term as specified in the Order.
- 2.1 **“Floating” or “Concurrent User”** license means that access to the Tool Software at any given moment is limited to the number of Authorized Users for whom Tool Software licenses have been acquired as per the Order.
- 2.2 **“Node-Locked” or “Mobile Compute”** license means that the use of the Tool Software, is restricted to a single workstation specified by Customer and may include a hardware lock device or dongle to manage this restriction. Such hardware lock devices or dongles are mobile, which means they are freely transportable to another workstation within the Territory without issuing a new license file.
- 2.3 **“Per Product”** license means that the use of the Software is restricted to the Customer Product(s) on which the Software is permitted to be installed as per the specified Authorized Use.
- 2.4 **“Development”** license means:
- i. For Software products which have been assigned the alphanumeric code EMB-IES on the Order: The non-exclusive, non-transferable right to embed Linkable Object Code of Embedded Software for installation in a hardware system for the Authorized Use and for Customer’s internal purpose of configuring, compiling and assembling the Embedded Software Source Code into Linkable Object Code and/or Executable Code to perform software testing without integrating it into moving machinery or any test version thereof or any commercial distribution.
 - ii. For Software products which have been assigned the alphanumeric code EMB-EPS on the Order: Subject to the restrictions of the respective Authorized Use, the non-exclusive, non-transferable right to use, test, demonstrate, modify and make copies of the Embedded Software, especially to get such Embedded Software configured, debugged, compiled, assembled, linked and get embedded in its Executable Code form into a Customer Product by Authorized Users.
- 2.5 **“Production”** license means:
- i. For Software products which have been assigned the alphanumeric code EMB-IES on the Order: The non-exclusive, non-transferable right to embed Linkable Object Code of Embedded Software for installation in a hardware system for the Authorized Use and purpose of configuring, compiling and assembling the Embedded Software source code into Linkable Object Code and/or Executable Code in order to integrate it worldwide into Customer Products and distribute it with Customer Products or any test versions thereof.
 - ii. For Software products which have been assigned the alphanumeric code EMB-EPS on the Order: Subject to full compliance with Section 2.4.ii, the non-exclusive, non-transferable right to worldwide distribute Customer Products, which have the Executable Code of the Embedded Software embedded.
- 2.6 **“Perpetual” or “Extended”** license means a license to use the Software that extends indefinitely. Unless otherwise set out in the Order, Perpetual licenses do not include Maintenance Services.
- 2.7 **“Subscription” or “Term”** means a license for a limited term as identified on the Order. Maintenance Services are included in the Subscription license fee. For multiple-year Subscription terms, SISW may require new license keys to be issued during the term.

3. OTHER PROVISIONS

- 3.1 **Default License Grant.** Unless licensed under a Floating license, or Node-Locked license, SISW grants to Customer a non-exclusive, non-transferable license to have the executable version of the Tool Software used or installed by Authorized Users, limited to Customer’s internal business purposes for the time period specified in the Order only. All licenses granted for Embedded Software are Development licenses unless explicitly designated to be Production licenses on the Order.
- 3.2 **Sublicense Grant and Termination.** Subject to the license restrictions of the respective Production license, Customer has the non-exclusive, non-transferable, sublicensable (including the right to grant further sublicenses) and perpetual right:
- i. to distribute the executable version of the Embedded Software embedded on a Customer Product to Legitimate Users of the Customer Product; and
 - ii. to have the executable version of the Embedded Software embedded on a Customer Product used by Legitimate Users, strictly limited to the extent reasonably necessary for using such a Customer Product;
- Any expiration or termination by SISW shall not affect any sublicenses granted to Legitimate Users prior to SISW’s termination or an expiration.
- 3.3 **Source Code.** If any Embedded Software or portions thereof are provided in source code form, Customer will use the source code only for correction of software errors, and/or enhancement, compilation according to the agreed compiler specification, or modification of the Embedded Software for the Authorized Use. SISW’s support and warranty obligations and liability shall only apply to Embedded Software in its unmodified state and only as provided by SISW.
- 3.4 **Customer Reporting.** In addition to audit rights stipulated in the Agreement, Customer shall at all times maintain records identifying: the identity and location of all entities currently using Embedded Software or Tool Software, including any contractors, the number of units distributed by Customer; or, a description of the Customer Product(s), Processors, ECU, Brand or Platform for which the Software is being used. Customer shall provide such requested information within thirty (30) calendar days from the date of SISW’s request.

4. **PORTING SERVICES.** Standardized porting services, which are designated as “Port” or “Porting Service” on the Order, entail the customization of the Embedded Software to function on or with a hardware configuration as specified in an addendum to the Order. Any Order for such porting services accepted by SISW will automatically amend the Authorized Use of the Embedded Software to be ported to the new hardware configuration.
5. **INDIRECT USE.** Indirect use of Tool Software via hardware or software used by Customer does not reduce the number of Authorized User entitlements that Customer needs to acquire.
6. **HOST IDENTIFIER; THIRD PARTY HOSTING.** Customer will provide SISW with sufficient information, including the host identifier for each workstation or server upon which the license management portion of Tool Software will be installed, for SISW to generate a license file enabling Software access per the scope of the licenses granted under each Order. Customer may only engage a third party to host Tool Software with SISW’s prior written consent. SISW may require a separate written agreement as a condition to such consent.
7. **MAINTENANCE SERVICES FOR SOFTWARE.** Maintenance, enhancement, and technical support services for Software (“**Maintenance Services**”) are governed by the terms found at <https://www.siemens.com/sw-terms/mes>, which are incorporated herein by reference.
8. **ADDITIONAL TERMS APPLICABLE TO XaaS OFFERINGS.**
 - 8.1 **Entitlements.** Cloud Services contained within an Embedded Software Offering may be used (i) worldwide by the number of Authorized Users set forth in the Order with respect to such Cloud Services, subject to Customer’s obligations in the Agreement regarding compliance with export controls, and (ii) solely in conjunction with the Software contained within such Embedded Software Offering. For purposes of such Cloud Services, an Authorized Agent may also occasionally access and use Cloud Services from locations other than Customer’s premises. Where Cloud Services allow Customer to provide access to additional users in a ‘guest’ (guest) capacity, such guest user access may be provided to any individual who requires access to such Cloud Services in support of Customer’s internal business as Customer’s employee, customer, client, supplier, consultant, agent, contractor or other business partner. Guest users shall be considered Authorized Users under this Agreement, but will not count towards the limited number of Authorized Users set forth in the Order for that subscription. In any case, each user must be a specific Authorized User identified by name. Customer may re-assign each entitlement to access and use Cloud Services from one Authorized User to another Authorized User within the same entitlement category once per calendar month. Additional use limitations may apply to Customer’s use of Cloud Services, which may be technically enforced via Cloud Services settings.
 - 8.2 **Support and SLAs.** SISW’s technical support for these Cloud Services and the applicable service levels are governed by the Cloud Support and Service Level Framework found at <https://www.siemens.com/sw-terms/sla>, which is incorporated herein by reference. Technical support and service levels are not applicable to Cloud Services used in conjunction with Software for which Maintenance Services are no longer provided.